

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO MARTINEZ,

Plaintiff,

No.

v.

**JOSE GUTIERREZ and
J & B TRANSPORTATION,**

Defendants.

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THIS COURT:

THIS ACTION, originally filed in the Fifth Judicial District Court, Chaves County, New Mexico as Cause No. D-0504-CV-2014-00004 (the “State Court Lawsuit”), is hereby removed to the United States District Court for the District of New Mexico by Defendant Jose Gutierrez d/b/a J & B Transport (incorrectly named in the complaint as “Jose Gutierrez and J & B Transportation”). In support of the removal of this action, Jose Gutierrez d/b/a J & B Transport states as follows:

1. This is a civil action for personal injury. The State Court Lawsuit was filed on or about January 3, 2014. The parties to the lawsuit are Plaintiff Antonio Martinez and Defendant Jose Gutierrez d/b/a J & B Transport.

2. The district courts of the United States have original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because it is a civil action between citizens of different states and, upon information and belief, the matter in controversy exceeds \$75,000.00, exclusive of interest and costs. See Exhibit A. Removal of this action is appropriate pursuant to 28 U.S.C. § 1441.

3. On information and belief, Plaintiff was at the time of the filing of the Complaint, and remains, a citizen of the State of New Mexico and a resident of Chaves County as alleged in the Complaint in the State Court Lawsuit. Jose Gutierrez d/b/a J & B Transport was at the time of the filing of the Complaint, and remains, a Texas citizen.

4. Venue of the removed action is proper in this Court because the State Court Lawsuit is pending in the subject federal district.

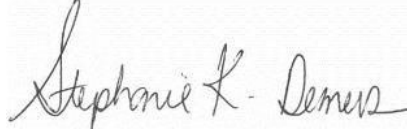
5. Jose Gutierrez d/b/a J & B Transport was served with the Summons on January 23, 2014. Jose Gutierrez d/b/a J & B Transport is thus timely filing this Notice of Removal within thirty days after the service of the initial pleading setting forth any claim for relief against this defendant.

6. Jose Gutierrez d/b/a J & B Transport has served notice of the filing of this Notice of Removal to Plaintiff through his attorney of record, and will file a copy of this Notice of Removal with the Clerk of the Fifth Judicial District Court, Chaves County, New Mexico, where the State Court Lawsuit is pending.

7. Copies of all process, pleadings, and orders served upon this defendant in the State Court Lawsuit are attached hereto as Exhibit B.

Respectfully submitted,

McCOY LEAVITT LASKEY LLC



By _____

H. Brook Laskey

Stephanie K. Demers

Attorneys for Jose Gutierrez d/b/a J & B Transport

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CERTIFICATE OF SERVICE

I certify that on the 20th day of February, 2014, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel of record to be served electronically:

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